

## **Nondiscrimination**

The Department of Labor and Workforce Development, State and Local Workforce Investment Boards, One-Stop Career Centers, service providers, vendors, and subrecipients must comply with the following nondiscrimination and equal opportunity laws and implementing regulations:

- Civil Rights Act of 1964
- Rehabilitation Act of 1973, Section 504
- Americans with Disabilities Act of 1990
- Title IX of the Education Amendment of 1972
- WIA § 188, and
- The regulations implementing the statutory provisions

Thus, PAR reviewers need to ensure that subrecipients are in compliance with the listed nondiscrimination provisions, in accordance with *TCA § 4-4-123*, and *TCA § 4-21-901 et seq.*, which are in place to ensure that:

**No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.** (*United States Code*, § 2000d)

and that:

**No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance . . .** (*United States Code*, § 1681)

and

**No person in the United States shall, on the ground of blindness or severely impaired vision, be denied admission in any course of study by a recipient of Federal financial assistance for any education program or activity, but nothing herein shall be construed to require any such institution to provide any special services to such person because of his blindness or visual impairment.** (*United States Code*, § 1684)

These laws and regulations are applicable to all of the programs, activities, and operations of the Department of Labor and Workforce Development and the subrecipient entities with which the department contracts utilizing federal funds. WIA 1998 describes these requirements as follows:

**NONDISCRIMINATION.** (a) In General.-- (1) Federal financial assistance.--For the purpose of applying the prohibitions against discrimination on the basis of age under the

Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), on the basis of disability under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), on the basis of sex under title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), programs and activities funded or otherwise financially assisted in whole or in part under this Act are considered to be programs and activities receiving Federal financial assistance. (2) Prohibition of discrimination regarding participation, benefits, and employment.--No individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with, any such program or activity because of race, color, religion, sex (except as otherwise permitted under title IX of the Education Amendments of 1972), national origin, age, disability, or political affiliation or belief. (3) Prohibition on assistance for facilities for sectarian instruction or religious worship.--Participants shall not be employed under this title to carry out the construction, operation, or maintenance of any part of any facility that is used or to be used for sectarian instruction or as a place for religious worship (except with respect to the maintenance of a facility that is not primarily or inherently devoted to sectarian instruction or religious worship, in a case in which the organization operating the facility is part of a program or activity providing services to participants). (4) Prohibition on discrimination on basis of participant status.--No person may discriminate against an individual who is a participant in a program or activity that receives funds under this title, with respect to the terms and conditions affecting, or rights provided to, the individual, solely because of the status of the individual as a participant. (5) Prohibition on discrimination against certain noncitizens.--Participation in programs and activities or receiving funds under this title shall be available to citizens and nationals of the United States, lawfully admitted permanent resident aliens, refugees, asylees, and parolees, and other immigrants authorized by the Attorney General to work in the United States. (*WIA § 188*)

### **Nondiscrimination Information and Reporting Requirements**

The documentation and other compliance measures required in order to comply with nondiscrimination statutes and regulations include, and all individuals covered by these regulations must sign, a nondiscrimination provision to indicate that the provider has explained the nondiscrimination provisions. Copies of these document can be found in the *Workforce Investment Programs Technical Assistance Manual*. A hardcopy of the signature page must be kept in the individual's file:

- Subrecipients must provide initial and continuing notice that it does not discriminate on any prohibited ground. This notice must be provided to: (1) Registrants, applicants, and eligible applicants/registrants; (2) Participants; (3) Applicants for employment and employees; (4) Unions or professional organizations that hold collective bargaining or professional agreements with the recipient; (5) Subrecipients that receive WIA Title I funds from the recipient; and (6) Members of the public, including those with impaired vision or hearing. (b) As provided in Sec. 37.9, the recipient must take appropriate steps to ensure that communications with individuals

with disabilities are as effective as communications with others. All notices must contain the specific language indicated below.

### Equal Opportunity Is the Law

It is against the law for this recipient of Federal financial assistance to discriminate on the following bases: against any individual in the United States, on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief; and against any beneficiary of programs financially assisted under Title I of the Workforce Investment Act of 1998 (WIA), on the basis of the beneficiary's citizenship/status as a lawfully admitted immigrant authorized to work in the United States, or his or her participation in any WIA Title I-financially assisted program or activity. The recipient must not discriminate in any of the following areas: deciding who will be admitted, or have access, to any WIA Title I- financially assisted program or activity; providing opportunities in, or treating any person with regard to, such a program or activity; or making employment decisions in the administration of, or in connection with, such a program or activity. **29 CFR 37.29**

- Subrecipients that publish or broadcast program information in the news media must ensure that such publications and broadcasts state that the WIA Title I-financially assisted program or activity in question is an equal opportunity employer/program (or otherwise indicate that discrimination in the WIA Title I-financially assisted program or activity is prohibited by Federal law), and indicate that auxiliary aids and services are available upon request to individuals with disabilities. **29 CFR 34.24**
- Certain subrecipients are required to provide language assistance to individuals who do not speak English as their primary language and who have a limited ability to speak, read, write or understand English. These individuals are to be considered Limited English Proficient (LEP) and entitled to free language assistance. Subrecipients can begin to comply with these provisions through application of the 4-Factor Test as described in policy guidance issued by the US Department of Justice dated April 12, 2002.  
***(Federal Register: May, 2003. Department of Labor, Policy Guidance to Federal Financial Assistance Recipients Regarding the Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons)***
- Each subrecipient must maintain, and submit upon request, a log of complaints filed with it that allege discrimination on the ground(s) of race, color, religion, sex, national origin, age, disability, political affiliation or belief, citizenship, and/or participation in a WIA Title I-financially assisted program or activity. The log must include: the name and address of the complainant; the ground of the complaint; a description of the complaint; the date the complaint was filed; the disposition and date of disposition of the complaint; and other pertinent information. Information that could lead to identification of a particular individual as having filed a complaint must be kept confidential. **29 CFR 37.37 (c)**